in question, the new means were warranted by the decision on the basis of necessity. According to the case of *Township of Ada* v. *Kent Cir. Judge*, 114 Mich. 77, this element should have no bearing on the question. A close case is found in *Hopkins Co.* v. *St. Bernard Coal Co.*, 114 Ky. 153. There acting under an order of court pursuant to constitutional power, the sheriff sent out special guards. Their salary was over the constitutional limit. The court held the payment of the salary to be valid, however, saying: "The duty of preserving the public peace and protecting life and property cannot be avoided because the income provided for the year by the fiscal court will be insufficient." But here the guards were expressly provided for by statute and the court admits that this is not a debt incurred under a contract "which it is optional with the county to incur." In those decisions which make a distinction between voluntarily and involuntarily incurred debts, as in the principal case, it is primarily a question of what each court considers optional, and as the dissenting opinion points out and as is intimated in the case of *Lake Co.* v *Rollins*, 130 U. S. 662, even with such a distinction, the fact that the Constitution provides for certain specified acts does not provide a class of obligations called compulsory obligations unless there is a necessary inability to give both these acts and the clause as to indebtedness their exact and literal fulfillment.

NUISANCE—WHAT CONSTITUTES—AUTOMOBILE GARAGE.—Plaintiff brought an action to obtain a permanent injunction to restrain defendant from opening and maintaining a public garage on a lot directly across the street and about seventy feet distant from plaintiff's dwelling, in a residential district. *Held*, that the establishment of an automobile garage in a residential district is not a nuisance per se, and injunction refused. *Sherman* v. *Levingston* (1910), 128 N. Y. Supp. 581.

The appearance of the garage is so recent that its right to exist in the residential district of a city has been passed upon by only a few courts. In *Stein* v. *Lyon*, 91 App. Div. 593, 87 N. Y. Supp. 125, the court declared that a garage is not a nuisance per se, and the same conclusion was reached in the case of *Diocese of Trenton* v. *Toman*, 74 N. J. Eq. 702, 70 Atl. 606, these courts evidently taking the view expressed in the principal case that a public garage may be so conducted that its objectionable features may be eliminated, or at least minimized to an extent that its operation will not unduly annoy or inconvenience those who reside near by. There is no question, however, that they may be so conducted as to become nuisances, and in *O'Hara* v. *Nelson*, 71 N. J. Eq. 161, 63 Atl. 836, the operation of a garage was enjoined where gasoline was to be stored upon the premises in large quantities so that there was imminent danger from explosion. There would seem to be no good reason for holding a garage a nuisance per se when livery stables in a city are held to be not necessarily nor prima facie a nuisance. *Durfey* v. *Thalheimer*, 85 Ark. 544, 109 S. W. 519; *Bonaparte* v. *Denmead*, 108 Md. 174, 69 Atl. 697.

PARTNERSHIP—ILLEGALITY—RECOVERY ON EXECUTED CONTRACT.—Plaintiff, a married woman, left her husband and eloped with defendant, with whom